

Listing of the claims:

Claims 1 - 26 canceled.

Claim 27. (currently amended) A lithium metal oxide positive electrode for a non-aqueous lithium cell prepared in its initial discharged state having a general formula $x\text{LiMO}_2 \cdot (1-x)\text{Li}_2\text{M}'\text{O}_3$ in which $0 < x < 1$, and where M is more than one ion selected from V, Mn, Fe, Co, and Ni with an average oxidation state of three with at least one ion being Ni and where M' is one or more ions selected from Mn, Ti, Zr, Ru, Re, and Pt with an average oxidation state of four, wherein both the LiMO_2 and $\text{Li}_2\text{M}'\text{O}_3$ components are layered and the ratio of Li to M and M' is greater than one and less than two.

Claim 28. (original). The lithium metal oxide positive electrode according to Claim 27, where M is more than one ion selected from Mn, Co, and Ni with an average oxidation state of three with at least one ion being Ni, and where M' is one or more ions selected from Mn, Ti, and Zr with an average oxidation state of four.

Claim 29. (original). The lithium metal oxide positive electrode according to Claim 28, where M is more than one ion selected from Mn, Co, and Ni with at least one ion being Ni, and where M' is Mn.

Claim 30. (cancelled).

Claim 31. (New) The lithium metal oxide positive electrode according to claim 1, in which M includes Mn, Ni and Co and the Mn:Ni ratio is 1:1.

Claim 32. (New) An electrochemical cell having a negative electrode and a non-aqueous electrolyte and a positive electrode, said positive electrode having in its initial discharged state, a general formula $x\text{LiMO}_2 \cdot (1-x)\text{Li}_2\text{M}'\text{O}_3$ in which $0 < x < 1$, and

where M is one or more ions selected from V, Fe, Mn, Co, and Ni with an average oxidation state of three, with at least one ion being Ni, and where M' is one or more ions having an average oxidation state of four with both the LiMO_2 and $\text{Li}_2\text{M}'\text{O}_3$ components being layered and the ratio of Li to M and M' being greater than one and less than two.

Claim 33. (New) A battery consisting of a plurality of cells, at least some cells including a negative electrode and a non-aqueous and a positive electrode, said positive electrode in its initial discharged state, a general formula $x\text{LiMO}_2 \cdot (1-x)\text{Li}_2\text{M}'\text{O}_3$ in which $0 < x < 1$, and where M is one or more ions including V, Fe, Mn, Co, and Ni with an average oxidation state of three, where at least one ion is Ni, and where M' is one or more ions having an average oxidation state of four with both the LiMO_2 and $\text{Li}_2\text{M}'\text{O}_3$ components being layered and the ratio of Li to M and M' being greater than one and less than two.